



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,341	08/15/2000	Fang Yi Peng	PGI 40037	2943

7590 03/12/2003
Russell W. Pyle
Pyle & Piontek
221 N. LaSalle St., Suite 850
Chicago, IL 60601

EXAMINER

SALVATORE, LYNDIA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 03/12/2003

//

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/638,341

Applicant(s)

PENG ET AL.

Examiner

Lynda M Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1771

DETAILED ACTION

Response to Amendment

1. Applicant's amendment to claim 1 and accompanying remarks, Paper No. 11, have been entered and carefully considered. Applicant's amendment to claim 1 is found to overcome the 112 1st paragraph rejection set forth in section 4 of the last Office Action. Despite this advance, ~~however, the amendments are not found to patentably distinguish the claims over the prior art and~~ Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Response to Arguments

2. Claims 1-6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tetsuya et al., Japanese Patent No. 08-246232 in view of Hulse et al., US 3,454,519.

Applicant has amended claim 1 to include the limitation of a non-woven fabric comprising thermally bonded polypropylene filaments which thermally bonds, individual ones of said filaments to each other and consolidates said fabric. Firstly, the Applicant argues that the prior art reference of Tetsuya et al., teaches cut staple fibers to produce a carded non-woven fabric. The Examiner would like to point out that the cut staple fibers are exemplary of Tetsuya et al., but are not limited to those types of fibers since there is nothing on record that would fairly suggest Tetsuya et al., teaching away from other type of fibers, such as continuous filaments. In addition, the choice whether to have cut, crimp, spun, or melt blown fibers is function of the desired end use. Tetsuya et al., in this case happens to teach a carded non-woven, but one skilled in the art would readily be able to tailor the type of non-woven fabricated. In other words, if the objective were to provide a spun-bonded non-woven, then one of ordinary skill in the art would

Art Unit: 1771

readily be able to employ the polypropylene composition of Tetsuya et al., and Hulse et al., to make continuous filaments. It is the position of the Examiner that the invention is in the polypropylene composition and as such, there is no teaching away that the polypropylene composition of Tetsuya et al., could not be extruded into continuous filaments. Thus, motivated to fabricate a non-woven comprising continuous filaments, it would have been obvious to one

~~having ordinary skill in the art to employ the polypropylene composition of Tetsuya et al., and~~

Hulse et al. Moreover, the Examiner would also like to point out that the Applicant's arguments are not commensurate in scope with claims because the claims are not limited to a spun-bonded non-woven. As such, a melt blown non-woven, which does comprise short fibers presently reads on claim 1.

With respect to the Applicant's arguments regarding the claimed bending resistance values, it is the position of the Examiner that the prior art of Tetsuya et al., teaches that the non-woven is "very flexible" (Section 0017) and the claimed bending resistance property value would inherently be present as a function of the type of fiber (i.e., continuous, melt-blown, staple and non-woven type (carded, spun-bonded, non-woven) provided.

With respect to the Applicant's arguments regarding the amounts of each amide used in the composition, the Examiner maintains that based on the teachings of the prior art, which teach a blend of claimed fatty acids, that the specific percentages of each fatty acid used would have been obvious to one having ordinary skill in the art at the time the invention was made in order to optimize the ratio of fatty acid amides to achieve a balance of desirable properties. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Application/Control Number: 09/638,341

Art Unit: 1771

ls 
March 9, 2003


CHERYL A. JUSKA
PRIMARY EXAMINER